

# Unlock briefing for Criminal Justice Bill committee stage, December 2023

## Introduction

Unlock is a national independent advocacy charity that supports, speaks up and campaigns for people facing stigma, prejudice and discrimination because of their criminal record. A core mission for Unlock is to provide advice for people in respect of their criminal record, including help overcoming the barriers they're facing. Our website provides vital information and guidance for people with criminal records, but we also have a helpline provided by dedicated staff and volunteers, which deals with specific queries. People can [contact the helpline](#) in various ways, including via email, WhatsApp or our free phone line.

## Background

This document sets out Unlock's position on a number of elements of the Criminal Justice Bill where those with a criminal record may be impacted. This bill, introduced as part of the King's Speech on 7 November 2023, contains numerous measures described by the government as improving public safety by providing "tougher" measures against certain crimes<sup>1</sup>. It embeds the narrative around criminal justice that adopts a more punitive response, rather than a focus on rehabilitation. As well as being generally disappointing, this is ineffective and particularly concerning in relation to social problems such as homelessness and begging. We are concerned that this bill leans into a hardline approach to criminal justice and is not conducive to the [wide-ranging reform](#) of the criminal records system that is necessary.

## Issues

### A punitive approach to criminal justice

The government summary of the measures contained in the bill persistently references an intention to be "tougher"<sup>2</sup>. This runs contrary to the extensive evidence that focusing on rehabilitation rather than more punitive punishments is the most effective way to reduce crime. In respect of criminal records in particular, introducing more severe punishments for existing crimes will mean more people will have to disclose their criminal record for longer, which directly impedes their opportunities for successful rehabilitation. This risks undermining the logic behind recent changes to spending periods, implemented on 28 October 2023 following 2022's passing of the Police, Crime, Sentences and Courts Act (PCSC). Unlock's briefing on these changes can be found [here](#), but it is worth noting that the logic underpinning the reduction of many spending periods was that doing so aids rehabilitation. Indeed, the current Sentencing Bill also contains

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<sup>1</sup> [Criminal Justice Bill: Overarching factsheet - GOV.UK \(www.gov.uk\)](#)

<sup>2</sup> [Criminal Justice Bill: Overarching factsheet - GOV.UK \(www.gov.uk\)](#)

measures that the government argue will aid rehabilitation. In embedding a more punitive, “tougher on crime” approach, however, the Criminal Justice Bill undermines those efforts. This bill would draw more people into the criminal justice system, increasing yet further the more than 12 million people in the UK with a criminal record who face barriers to employment, education, housing, finance and other areas of social inclusion, all of which are key to someone turning their life around and ultimately reducing the incidence of reoffending.

## Criminalising social problems

The bill introduces measures to tackle “nuisance begging” and “nuisance rough sleeping”. In 2022, PCSC moved to abolish the 1824 Vagrancy Act once replacement measures were introduced; this bill contains those measures.

Clauses 39-50 of the bill deal with “nuisance begging” whilst clauses 51-62 deal with “nuisance rough sleeping”; clauses 63-64 provide additional provisions for both. The concept of “nuisance rough sleeping” is broadly defined in the bill and can be applied even to someone who “gives the appearance that they are sleeping rough, or intends to sleep rough”. Failure to comply with a direction to “move on” could lead to someone being issued with a “rough sleeping prevention order”, lasting up to five years and with attached conditions; a month’s imprisonment can be given for further failure to comply<sup>3</sup>.

This criminalisation of a social problem risks dragging more people into the criminal justice system, thus increasing the number of people with a criminal record. This will have a particular impact on those who are already facing difficulties, evidenced by their need to sleep rough.

Also concerning are the mechanisms in the bill for measures to require escalation of criminal justice responses to repeat incidences up to a prison sentence, restricting the opportunities for the criminal justice system to respond to individual circumstances of a case, including the overall seriousness of the incidence. Where community sentences become spent upon the completion of the order, a custodial sentence of less than a year carries a spending period of a year following the end of the sentence. As such, a one-month sentence acquired under this legislation would remain unspent for thirteen months (the original month followed by the further one year of the spending period). Additionally, a custodial sentence means that the offence can never be filtered from a standard or enhanced DBS check, so would remain disclosable indefinitely in certain circumstances. As well as creating a barrier to rehabilitation, this could also lead to people receiving more punitive sentences for offences later if previous offending and consequential sentences are taken into account, regardless of whether they are in the process of attempting to move on with their life. Custodial sentences are normally indicative of an offence’s severity, but if courts are required to escalate to more punitive sentences automatically, without consideration of specific circumstances, then a prison sentence may not be a proportionate punishment, and therefore one that carries with it excessive spending period implications.

The consequences outlined here for a criminal record demonstrates a particular risk in criminalising rough sleeping. Although the government’s explanation of the measures in this bill to deal with rough sleeping include mention of directing those who are “genuinely homeless... to appropriate support”, the legislation itself is far more concerned with setting up an escalation of consequences drawing people ever-further into the criminal justice system<sup>4</sup>.

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<sup>3</sup> Explanatory notes to the bill: [Criminal Justice \(parliament.uk\)](https://www.parliament.uk/resources/bills/2022/criminal-justice-bill).

<sup>4</sup> [Criminal Justice Bill: Nuisance begging and rough sleeping - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/bills/2022/criminal-justice-bill)

## Name change for those on the sex offenders register

The issue of prohibiting those on the sex offenders register from changing their names by deed poll is one that a number of parliamentarians have been promoting for some time. A Private Members' Bill on this issue was introduced to parliament on 1 March 2023<sup>5</sup>. Then, in the committee stage of the Victims and Prisoners Bill (29 June 2023) an amendment on it was debated (and withdrawn on an understanding of coming government action)<sup>6</sup>.

Although there is nothing on this in the legislation as yet, during the bill's Second Reading in the House of Commons on 28 November, the Home Secretary confirmed that "the government will also bring forward amendments to the Bill to restrict the ability of registered sex offenders to change their names"<sup>7</sup>. This was welcomed in the debate by MPs from both main political parties.

Unlock supports efforts to reduce sexual offences and protect those most vulnerable or at risk of becoming victims. The criminal records system plays an important role in this but should not be regarded as the sole tool for safeguarding and identifying risk, and its efficacy in this area should not be exaggerated.

Without an amendment having yet being tabled on this issue, it is hard to comment in detail. However, we are concerned that there is not a clear identified need to bring forward further legislation relating to criminal records to stop those on the register from changing their names. Once an amendment is tabled, we would seek to provide further comment.

There are existing legal mechanisms designed to address the risk that those convicted of sexual offences cannot simply change names in order to circumvent any restrictions placed upon them. For those under license conditions for sexual offences, for example, changing a name (informally or by deed poll) is something they would need to disclose to their probation practitioner.

Similarly, the Disclosure and Barring Service (DBS) already accounts for people having changed names, with a requirement to provide documentary evidence to this end. Name changes are common (for example through marriage or divorce), so this system is well developed. The Bailey Review of the DBS, published in February 2023, was "unable to uncover reliable evidence" of people using name changes to circumvent the system of criminal records checks, with there being "no hard evidence has been uncovered that demonstrates that the assertions that name changing has enabled numbers of individuals to circumvent the DBS IDV (identity validation) process are correct"<sup>8</sup>. In addition, the Review notes that "the DBS is confident in that process", raising questions as to whether changes are necessary.

The Rehabilitation of Offenders Act 1974 (ROA) asserts an individual's legal right to have their conviction 'forgotten' upon it becoming spent. As such, any ongoing restriction on their day-to-day life could contradict this right, including a restriction on their right to change their name by deed poll. We are also concerned with the way in which this issue is often conflated with 'culture war' issues, such as transgender rights, that risk demonising certain groups within society.

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<sup>5</sup> [Sexual Offences \(Prohibition of Name Change\) Bill - Parliamentary Bills - UK Parliament](#)

<sup>6</sup> [PBC286 VictimsandPrisoners\\_1st14th\\_Compilation\\_11\\_07\\_2023.pdf \(parliament.uk\)](#)

<sup>7</sup> [Criminal Justice Bill - Hansard - UK Parliament](#)

<sup>8</sup> [6.8338 HO Independent review of the disclosure and barring regime \(publishing.service.gov.uk\)](#)

## Conclusion

Our main concerns with this bill can be summarised in three parts.

Firstly, that its punitive approach to criminal justice does little to support rehabilitation and certainly doesn't pave the way, in its current form, for the kind of progressive change that would have a positive impact on people with a criminal record seeking to make a fresh start. As part of the [#FairChecks movement](#), we have specific policy asks that would make this type of difference.

Secondly, we are concerned that the provisions in the bill related to begging and rough sleeping run the risk of criminalising people as a result of poverty and homelessness which are social problems. This will increase the number of people ending up with a criminal record and facing the barriers that can limit opportunities to successfully move on with their life, ultimately reducing reoffending.

Finally, we are concerned that a proposed government amendment concerning the ability for those on the sex offenders register to change their names by deed poll carries with it risks to the rights of both individuals and minority groups.

## Further information

If you have any queries about this briefing, or wish to discuss the issues raised any further, please feel free to get in touch directly.

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